



CITY COUNCIL AGENDA

OCTOBER 4, 2005

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
MADISON P. NGUYEN
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:31 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent Council Members: None.

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:01 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: None.

- **Invocation (District 9)**
Reverend Bob Kilpatrick, Cambrian Park Church of the Nazarene.

- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance

- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Father Gerald T. Wade on the occasion of his Jubilee Year in recognition of his outstanding service to the citizens of San José and the Bellarmine College Preparatory community. (Yeager)
Mayor Gonzales and Council Member Yeager recognized and commended Father Gerald T. Wade for his dedicated service and outstanding contributions to the community.

1. CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to the San José/Silicon Valley NAACP for receiving for a second year in a row, two 2005 Thalheimer Awards for being the most outstanding branch of its size. (Cortese)
Heard in the Evening.
Mayor Gonzales and Council Member Cortese recognized and commended the San José/Silicon Valley NAACP for their outstanding achievements and well earned recognition.
- 1.3 Presentation of a proclamation proclaiming October 9-15, 2005 as “Fire Prevention Week”. (Fire)
Mayor Gonzales declared October 9 through 15, 2005 as “Fire Prevention Week” in the City of San José. Fire Chief Jeffrey Clet accepted the plaque.
- 1.4 Presentation of commendations for the City Team who assisted with the success of the San José Grand Prix. (Mayor)
Mayor Gonzales, Vice Mayor Chavez and Council Members Campos, Cortese and LeZotte recognized and commended all of the employees that assisted with the success of the San José Grand Prix.
- 1.5 Presentation of a proclamation in honor of Employment of Persons with Disabilities Awareness Month, “Workers with Disabilities: Ready for Tomorrow’s Jobs Today”. (LeZotte)
(Rules Committee referral 9/28/05)
Mayor Gonzales and Council Member LeZotte presented a proclamation in honor of “Employment of Persons with Disabilities Awareness Month” to Mr. Aaron Morrow, Chair of the Disability Advisory Commission.
- 1.6 Presentation of a proclamation declaring October 16th, as Indian Business & Professional Women Day in San José. (LeZotte)
(Rules Committee referral 9/28/05)
Heard in the Evening.
Mayor Gonzales and Council Member LeZotte declared October 16, 2005 as “Indian Business and Professional Women Day” celebrating their success in the business environment.
- 1.7 Presentation of a commendation honoring Leigh Weimers, columnist for the San José Mercury News, for his outstanding career in journalism and extensive community involvement. (Chavez)
Deferred to 10/18/05.
- 1.8 Presentation of a proclamation, declaring October 10, 2005, as PG&E Day, celebrating 100 years of excellence to the people and businesses of our community. (Chavez)
Mayor Gonzales and Vice Mayor Chavez declared October 10, 2005 as “PG&E Day” in celebration of its centennial anniversary.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 27548 – Granting a commercial solid waste and recyclables collection franchise to Pacific Coast Recycling Inc.
Ordinance No. 27548 adopted.
- (b) ORD. NO. 27550 – Rezoning certain real property situated on the east side of South 10th Street, approximately 150 feet south of San Salvador Street (422 South 10th Street) to A(PD) Planned Development Zoning District. PDC05-025
Ordinance No. 27550 adopted.
- (c) ORD. NO. 27551 – Rezoning certain real property situated west side of South 9th Street approximately 90 feet southerly of East William Street (525 S. 9th Street) to A(PD) Planned Development Zoning District. PDC05-020
Ordinance No. 27551 adopted.
- (d) ORD. NO. 27552 – Rezoning certain real property situated on the southwest corner of Rock Avenue and Oakland Road (Lot 57, Tract 9618) to A(PD) Planned Development Zoning District. PDC05-085
Ordinance No. 27552 adopted.
- (e) ORD. NO. 27554 – Amends Section 4.24.010 of Chapter 4.24 of Title 4 of the San José Municipal Code to authorize the City Attorney to compromise and settle claims related to sanitary sewer backup intrusions in which the amount to be paid by the City does not exceed twenty-five thousand dollars (\$25,000).
Ordinance not adopted. Will be heard 10/18/05.
- (f) ORD. NO. 27562 – Establishes Combination Rule 20A/In-Lieu Fee (Rules 20B) Underground Utility District on Taylor Street from First Street to Tenth Street; Jackson Street from Seventh Street to Ninth Street; Seventh Street from Jackson Street to Taylor Street; and Sixth Street from Taylor Street to Empire Street.
Ordinance not adopted. Will be heard 10/18/05.

2.3 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period July 16 through August 15, 2005.

Recommendation: Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period July 16 through August 15, 2005*. (City Auditor)
(Rules Committee referral 9/21/05)

Report Accepted.

2. CONSENT CALENDAR

- 2.4 Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP for the quarter ending June 30, 2005 relating to the Bay 101 Conditional Approval of Stock Transfer.**

Recommendation: Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP for the quarter ending June 30, 2005 relating to the Bay 101 Conditional Approval of Stock Transfer. (City Auditor)
(Rules Committee referral 9/21/05)

Report Accepted.

- 2.5 Approval to install an automated teller machine at the HP Pavilion at San José.**

Recommendation: Approval of the installation of an exterior automated teller machine (ATM) affixed to the HP Pavilion at San José. CEQA: Exempt, File No. PP05-174. (Economic Development)

Approved.

- 2.6 Approval of revisions to policies and guidelines to the Operating Grant Arts Program.**

Recommendation: Adoption of a resolution approving revisions to policies and guidelines, for the Operating Grant Arts Program administered by the Office of Cultural Affairs, in order to streamline eligibility requirements and the grant review and recommendation process, and to provide for the ongoing implementation of multi-year applications. CEQA: Not a Project. (Economic Development)

Resolution No. 72917 adopted.

- 2.7 Approval of agreements for public art for the CIM Project.**

Recommendation: Adoption of a resolution authorizing the City Manager to:

- (a) Negotiate and execute an agreement with Block 3 Development Partners LLC, assignee of CIM California Urban RE Fund LGP, LLC (“Developer”), in an amount not to exceed \$122,104 for the City’s Office of Cultural Affairs to administer a public art project at Block Three, Phase 1 in downtown San José; and
- (b) Negotiate and execute an amendment to the agreement between Developer and City to reflect an increase in the public art budget allocated to Phase 1 of Block Three, if the total estimated budget for the Block Three, Phase 1 Project shows an increase of more than 10% at the design development stage.

CEQA: EIR Resolution No. 71039.1. Council District 3. (Economic Development)

Deferred to 10/18/05.

2. CONSENT CALENDAR

2.8 Approval of a Community Event for use of the HP Pavilion.

Recommendation: Approval of use of the HP Pavilion at San José for a Community Event date, at a funding level that is not to exceed \$20,000 for the San José Sports Hall of Fame Induction Ceremony on November 3, 2005. CEQA: Not a Project. (Economic Development)

Approved.

2.9 Approval of group dental agreements.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute the following group dental agreements for the period January 1, 2006 through December 31, 2010:

- (a) Delta Dental as the TPA (third-party administrator) and PPO (preferred provider organization) provider for the dental indemnity plan.
- (b) Delta Dental's DeltaCare product, a dental HMO (Health maintenance Organization), to replace the DBP Dental Benefit Providers) plan.

CEQA: Not a Project. (Employee Services)

Resolution No. 72918 adopted.

2.10 Approval of open purchase orders for supplies, materials, equipment and services.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2005-2006 #4 and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for CEQA designation(s). (Finance)

Approved.

2.11 Approval of a Quitclaim Deed restoring pedestrian and vehicle access rights to General Electric Company.

Recommendation: Adoption of a resolution directing the City Clerk to execute and record at the Office of the County Recorder, a Quitclaim Deed restoring pedestrian and vehicle access rights on Curtner Avenue and Little Orchard Street to General Electric Company. CEQA: Not a Project. Council District 7. (General Services)

Resolution No. 72919 adopted.

2. CONSENT CALENDAR

2.12 Approval to sell property located at the northeast corner of Capitol Avenue and Rose Avenue.

Recommendation: Adoption of a resolution declaring a 3,277 square foot portion of City-owned land located at the Northeast corner of Capitol Avenue and Rose Avenue as:

- (a) Surplus to the needs of the City;
- (b) Authorizing its sale to Amrik Singh Pawar for \$75,000; and
- (c) Delegating authority to the Director of General Services to execute all documents necessary to complete the transfer of the property.

CEQA: Exempt, File No. PP99-117. Council District 5. SNI: East Valley – 680 Communities. (General Services)

Resolution No. 72920 adopted.

2.13 Approval of an agreement for use of software for City Employee Giving Campaign.

Recommendation: Approval of an agreement with United Way Silicon Valley for use of software for City Employee Giving Campaign and authorize the Library Director to serve as the coordinator of the City Employee Giving Campaign. CEQA: Not a Project.

(Library)

Approved.

2.14 Adoption of a resolution ordering the reorganization of territory designated as Capitol No. 52.

Recommendation: Adoption of a resolution ordering the reorganization of territory designated as Capitol No. 52 which involves the annexation to the City of San José of 0.32 acres of land more or less, located at the on the northwest corner of Wilbur Avenue and Nancy Lane and adjacent to the City of San José annexation Capitol No. 42-A and the detachment of the same from Central Fire Protection, Area No. 01 (Library Services) County Services, County Lighting Services, and Sanitation District 2-3. Council District 5. CEQA: Resolution No. 65459, File No. C05-023. (Planning, Building and Code Enforcement)

Resolution No. 72921 adopted.

2. CONSENT CALENDAR

2.15 Adoption of a resolution ordering the reorganization of territory designated as Penitencia No. 72

Recommendation: Adoption of a resolution ordering the reorganization of territory designated as Penitencia No. 72 which involves the annexation to the City of San José of 0.84 acres of land more or less, located at the on the west side of Toyon Avenue, approximately 370 feet south of Selby Lane, and adjacent to the City of San José annexation Penitencia No. 1-B and the detachment of the same from County Lighting County Services, Central Fire Protection, Area No. 01 (Library Services) County Services and Sanitation District 2-3. Council District 5. CEQA: Resolution No. 65459, File No. C05-024. (Planning, Building and Code Enforcement)

Resolution No. 72922 adopted.

2.16 Approval of agreements with, and providing additional funding for, the Independent Evaluator/Attorney and Independent Investigator for the San José Elections Commission.

Recommendation:

(a) Adoption of a resolution:

- (1) Authorizing the City Attorney to execute an agreement with Hanson, Bridgett, Marcus, Vlahos, Rudy LLP to provide legal and investigative services as the Evaluator to the San Jose Elections Commission for a two-year term beginning on July 1, 2005 and extending through June 30, 2007, in an amount not to exceed \$100,000.
- (2) Authorizing the City Clerk to execute an agreement with Roberto A. Rivera dba Rivera & Associates to provide investigation services to the San Jose Elections Commission for a term beginning September 26, 2005 and extending through June 30, 2007, in an amount not to exceed \$10,000.

Resolution No. 72923 adopted.

(b) Adoption of the following appropriation ordinance amendments in the General Fund:

- (1) Increase the Campaign Finance Review/Ethics City-Wide appropriation by \$110,000.
- (2) Decrease the Contingency Reserve by \$110,000.

CEQA: Not a Project. (City Attorney's Office/City Clerk/City Manager's Office)
(Rules Committee referral 9/28/05)

Ordinance No. 27563 adopted.

2. CONSENT CALENDAR

2.17 Adoption of a resolution in support of SB 962 (Chesbro), AB 1378 (Lieber), and AB 609 (Lieber).

Recommendation: Adoption of a resolution in support of SB 962 (Chesbro), AB 1378 (Lieber), and AB 609 (Lieber), which relates to the impending closure of Agnews Developmental Center. (Chavez/LeZotte)
(Rules Committee referral 9/28/05)

Resolution No. 72924 adopted, with Staff directed to immediately process and forward the resolution to legislative representatives.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair No Report.

3.2 Report of the Rules Committee – September 21, 2005 Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review October 4, 2005 City Council Agenda
The Committee recommended approval of the October 4, 2005 City Council Agenda with 3 additions.
 - (2) Add New Items to September 27, 2005 Agenda
The Committee recommended approval of the September 27, 2005 City Council Agenda with four additions and that the request for a Special Personnel Review of the City Manager return to the Rules Committee in two weeks for a formal recommendation.
 - (3) List of Reports Outstanding
The Committee noted and filed the City Manager's Report.
- (c) Legislative Update
 - (1) State
There was no report.
 - (2) Federal
There was no report.
- (d) Meeting Schedules
There were none.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 21, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

(1) Summary of Commission Vacancies

The Committee noted and filed the City Clerk's Report.

(2) Reinstatement Commissioner Brenda Jackson to serve the remainder of her term on the Small Business Development Commission

The Committee recommended reinstating Commissioner Brenda Jackson to serve the remainder of her term on the Small Business Development Commission.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Workload Assessment for Creating a Meghan's Law Taskforce

The Committee recommended accepting the workload assessment for the creation of a Megan's Law Taskforce with the addition of representatives from the Probation Department and the Domestic Violence Taskforce to the taskforce membership list.

(2) City Council Initiated Rezoning of Parcels within the Garden Alameda Neighborhood from R2, CO and CN to R-1

The Committee recommended that the item be forwarded to the City Council to direct Staff to initiate the requested rezoning.

(h) Oral Communications

There were none presented.

(i) Adjournment

The meeting was adjourned at 3:05 p.m.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee (Partial) – September 28, 2005

Vice Mayor Chavez, Chair

(c). Legislative Update

(1) State

- (a) Approval of the 2005 League of California Cities Resolutions. **The Committee approved the recommended positions for Resolutions 1-7. The Committee recommended a support-in-concept position for Resolution 8 relating to Broadband Internet Access and requested that City Representatives to League Policy and Resolution Committees at the conference seek the addition of another “whereas” clause that would emphasize the need for a long term framework to ensure equal access to the Internet.**

The Reports of the Rules/Partial Rules Committee and the Actions of September 21, 2005 and September 28, 2005, were approved.

3.3 Report of the Making Government Work Better Committee

Council Member Reed, Chair

No Report.

3.4 Certification of the results of the Special Run-Off Municipal Election held September 13, 2005.

Recommendation: Adoption of a resolution declaring results of the September 13, 2005 Special Run-Off Municipal Election pursuant to Elections Code Section 15400. The resolution will certify the results of the election and confirm the election of Madison P. Nguyen to fill the unexpired vacancy in the Office of Council Member – District 7. (City Clerk)

(Rules Committee referral 9/28/05)

Resolution No. 72925 adopted.

3.5 Setting voluntary expenditure limits for the 2006 Municipal Election Cycle.

Recommendation: Adoption of a resolution setting population figures to calculate the Voluntary Expenditure Limits for the 2006 Municipal Election Cycle. (City Clerk)

(Rules Committee referral 9/28/05)

Resolution No. 72926 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – September 19, 2005 Council Member Chirco, Chair

- (a) Discussion of the Neighborhood Development Center (NDC) Deployment Progress and Desired Outcomes
The Committee accepted the Staff Report.
- (b) Report on Strong Neighborhoods Partnerships with San José State University Foundations, Non-Profit Organizations and Corporations
The Committee accepted the Staff Report. Staff will return to the Committee with an update.
- (c) San José Prepared! Outcomes and Work Plan Development
The Committee accepted the Staff Report. Council Offices will designate a Staff lead person to work with Dr. Stevens to set up a hub in each Council District.
- (d) Animal Care Center Status Report and Policy Barriers
Deferred to November 21, 2005.
- (e) Secondary Units Pilot Program Implementation Steps and Community Outreach
The Committee approved to defer this item to the October 17, 2004 Agenda.
- (f) Oral Petitions
There were none presented.
- (g) Adjournment
The meeting was adjourned at 2:45 p.m.

The Report of the Building Strong Neighborhoods Committee and the Actions of September 19, 2005, were accepted.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair No Report.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval of an ordinance related to the off-sale of alcoholic beverages.

Recommendation: Approval of an ordinance amending Title 20 of the San José Municipal Code:

- (a) To amend land use regulations pertaining to off-sale alcoholic beverages, to set forth elements for consideration in a liquor license exception process, to amend the locational criteria for off-sale of alcoholic beverages uses, and to distinguish off-sale of beer and wine uses from off-sale of all types of alcohol uses; and,
- (b) To repeal the provisions contained in the Zoning Code pertaining to gasoline service station combined uses.

Planning Commission recommends approval; (5-1-1; Dhillon opposed, Pham absent) with direction to examine: 1) an exception from the public convenience or necessity process for large retailers with no more than 5% shelf space devoted to alcohol sales and 2) exceptions for certain types of off-sale uses.

CEQA: Exempt.

Heard in the Evening.

Ordinance No. 27564 passed for publication, with the following direction to Staff:

- (1) **Add Public parks to the list of “proposed uses would not be located within 500 feet”.**
- (2) **Bring forward amendments at the 11/15/05 Council Meeting to be considered in conjunction with the second reading that incorporate the following changes:**
 - **Examine appropriate locations and possible other land use regulations pertaining to sales of fortified wines/liquors and single can/bottle sales, in addition to the distilled liquor restrictions proposed by Staff, and direct Staff to establish effective coordination with ABC on appropriate conditions within ABC permits related to this and other health and safety issues.**
 - **Examine and provide a recommendation on the establishment of operating regulations for off sale establishments that create minimum standards of operation, including hours of operation, maintenance of the premises, minimum lighting standards, provision of trash receptacles, location for sale of “adult only” video recordings, locations of on premises advertising and location/security of alcohol, etc.**
 - **Examine and report back on methods to administratively fine and/or remove the right to sell alcohol by businesses found in n on-compliance with their Conditional Use Permits in a timely manner, and include appropriate ordinance changes if any, needed to implement the recommendation in the amendments brought back to Council.**
 - **Provide recommendation on implementing a program similar to the City’s Multiple Dwelling Fee to ensure adequate enforcement of off sale alcohol establishments and bring back for Council consideration any related ordinance or resolution amendments necessary to implement staff recommendation.**

Item continued on the next page

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval of an ordinance related to the off-sale of alcoholic beverages (Cont'd.)

- (3) Include the Strong Neighborhood Initiative areas in the target law enforcement area.
 - (4) Look at opportunities for increasing penalties for the illegal sale of alcohol to minors.
 - (5) Lower the trigger for legal nonconforming establishments.
 - (6) Enhance the focus on single sales of alcohol.
 - (7) Strengthen the Conditional Use Permit process to include violations for trash and noise issues, which would allow a Code Enforcement Officer to begin the enforcement process earlier.
 - (8) Review the process in one year to assess progress.
- The Planning Commission's addition was not approved.
Noes: Nguyen. Disqualified: Cortese, Reed.

4.4 Approval of agreements associated with the building permit process.

Recommendation:

- (a) Report on the criteria for use of consultants for plan review and engineering peer review services associated with the building permit process.

Report Accepted.

- (b) Adoption of a resolution authorizing the City Manager to execute a fourth amendment to the agreements for plan check services as follows:
 - (1) Increasing maximum compensation by \$50,000 for 5 agreements to the following amounts:
 - (a) The Phillips Group by \$5,000 from \$50,000 to \$55,000.
 - (b) Kutzmann & Associates by \$5,000 from \$129,000 to \$134,000.
 - (c) Linhart, Petersen, Powers Associates by \$30,000 from \$141,000 to \$171,000.
 - (d) R.K. Associates by \$5,000 from \$15,000 to \$20,000.
 - (e) Esgil Corporation by \$5,000 from \$105,000 to \$110,000.

Not Approved.

- (2) Extending the terms of the agreements by four months from October 1, 2005 to January 31, 2006;

Resolution No. 72927 adopted.

- (c) Authorization for the beginning of a process to identify and review qualifications of outside consultants for plan review and engineering peer review professional services and develop a procurement strategy.

CEQA: Not a Project. (Planning, Building and Code Enforcement)

Approved.

Staff was directed to move forward with the contracts and return in 6 months with a status report on the work load study.

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair No Report.

5.2 Council discussion of the conditions of City swimming pools.

Recommendation:

- (a) Acceptance of the report conducted by consultants Aquatic Design Group Incorporated regarding the assessment of City pools.
Report Accepted.
- (b) Approval to keep the (4) pools: Mayfair, Ryland, Biebrach, and Alviso closed, and to defer additional investment in existing pools pending the completion of the proposed strategic planning process.
Approved.
- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute one or more consultant agreements to conduct a strategic planning process for its Aquatics program, in an amount not to exceed \$250,000, that would include a community outreach process to identify service needs, an analysis of alternative service delivery options and recommendations to improve the financial viability of its programs.
Resolution No. 72928 adopted.
- (d) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 1:
 - (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
 - (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.**Ordinance No. 27565 adopted.**
- (e) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 2:
 - (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
 - (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.**Ordinance No. 27566 adopted.**

5. NEIGHBORHOOD SERVICES

5.2 Council discussion of the conditions of City swimming pools. (Cont'd.)

(f) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 3:

- (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
- (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.

Ordinance No. 27567 adopted.

(g) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 4:

- (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
- (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.

Ordinance No. 27568 adopted.

(h) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 5:

- (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
- (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.

Ordinance No. 27569 adopted.

(i) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 6:

- (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
- (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.

Ordinance No. 27570 adopted.

5. NEIGHBORHOOD SERVICES

5.2 Council discussion of the conditions of City swimming pools. (Cont'd.)

- (j) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 7:
- (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
 - (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.

Ordinance No. 27571 adopted.

- (k) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 8:
- (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
 - (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.

Ordinance No. 27572 adopted.

- (l) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 9:
- (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
 - (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.

Ordinance No. 27573 adopted.

- (m) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 10:
- (1) Establish an appropriation in the amount of \$25,000 to the Parks, Recreation and Neighborhood Services Department for the Citywide Pool Assessment Feasibility Study.
 - (2) Decrease the appropriation for the Capital Maintenance Projects by \$25,000.

CEQA: Not a Project. SNI: Greater Gardner, Mayfair, 13th Street. (Parks, Recreation and Neighborhood Services/City Manager's Office)

(Rules Committee deferral 9/14/05)

(Deferred from 9/27/05 – Item 5.3)

Ordinance No. 27574 adopted.

5. NEIGHBORHOOD SERVICES

5.2 Council discussion of the conditions of City swimming pools. (Cont'd.)

Staff and Consultant were directed to:

- (1) Work closely with the Disability Advisory Commission (DAC).
- (2) Collaborate with academic institutions, including high schools, community colleges and universities.
- (3) Work with the Police Department to address safety and gang issues.
- (4) Examine the proximity of swimming pools to certain neighborhoods.
- (5) Provide a menu of options for Council consideration.

5.3 Approval to name a new neighborhood center located at 1200 Blossom Hill Road.

Recommendation: Recommendation of the Parks and Recreation Commission to name a new neighborhood center located at 1200 Blossom Hill Road as the "Pat Dando Hoffman/Via-Monte Neighborhood Center". (City Clerk)

(Rules Committee referral 9/21/05)

Heard in the Evening.

Approved.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee – September 12, 2005 Council Member Campos, Chair

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Discussion of Local Transportation Funding Needs and Strategies
The Committee accepted the report with Staff directed to return within the next six month work plan cycle.
 - (2) Progress Report on the Proposed Electronic Transportation Development Center
The Committee accepted the report.
- (b) Traffic Relief/Safe Streets
No items.
- (c) Supporting Smart Growth
 - (1) Post Event Report on San José Grand Prix Traffic and Parking Management
The Committee accepted the report with Staff directed to return to the October 4, 2005 Council Meeting with a short presentation on the successes and recognize the efforts of Staff for the Inaugural San José Grand Prix.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee – September 12, 2005 Council Member Campos, Chair (Cont'd.)

(d) Regional Relationships/Funding/Policy

No items.

(e) Oral Petitions

There were none presented.

(f) Adjournment

The meeting was adjourned at 3:18 p.m.

(Rules Committee deferral 9/14/05)

(Deferred from 9/27/05 – Item 6.1)

The Building Better Transportation Committee Report and the Actions of September 12, 005, were accepted.

6.2 Approval of actions related to the Airport's Financial and Business Plan Workshop.

Recommendation:

(a) Direct the Administration to conduct a more thorough analysis of the recommendations developed at the recent airport/airline workshop and provide a status report, with recommendations, at the November 15, 2005 Council Meeting.

(b) Place a moratorium on bidding projects related to the development and implementation of the North Concourse for a period of 45 calendar days.

CEQA: Resolution Nos. 67380 and 71451, PP05-183. (Airport)

Approved.

6.3 Approval to reject all bids for the Airport's USO/Parking Revenue Control Modular Offices

Recommendation: Approval to reject all bids for the Norman Y. Mineta San José International Airport- USO/Parking Revenue Control Modular Offices (Revised) contract. CEQA: Resolutions No. 67380 and 71451, PP 05-075. (Airport)

(Deferred from 9/27/05 – Item 6.2)

Deferred to 10/18/05.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Public Hearing on vacating a portion of the Light and Air Easement located at 2103 Emory Street.

Recommendation: Public Hearing and adoption of a resolution vacating a portion of the Light and Air Easement that lies within Lot 23 of Tract No. 703, located at 2103 Emory Street. CEQA: Exempt, File No. 3-16872. Council District 6. (Public Works)

The Public Hearing was held.

Resolution No. 72929 adopted.

7.2 Acceptance of the interim status report and schedule on the Recycle Plus agreements.

Recommendation: Acceptance of the interim status report and schedule on potential three-year extensions of the terms of the Recycle Plus agreements. CEQA: Negative Declaration, PP92-05-98. (Environmental Services)

Interim Status Report Accepted, with Staff directed to:

- (1) Provide copies of all characterization studies to Council.**
- (2) Obtain feedback from the contractors' outstanding issues.**
- (3) Provide more information about non-performance elements of the contracts.**

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Closed Session Report**
No Report.

- **Notice of City Engineer’s Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9611	Southerly terminus of Basking Ridge Ave., Easterly of US 101	2	Lennar	213 Unit Homes	SFDR	Approve

- **Open Forum**

- (1) **Mark Trout voiced his own religious point of view.**
- (2) **Robert Algar spoke about personal matters.**
- (3) **Ross Signorino mentioned he was sorry he was not able to participate in the “Walk for Domestic Violence”.**

- **Adjournment**

The afternoon Council Session adjourned at 4:42 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

(Heard by the City Council at 7:01 p.m.)

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning request from R-2 Two Family Residence District to A(PD) Planned Development to allow two single family detached residences in a flag lot configuration on a 0.28 gross acre site, located on the north side of Lincoln Court approximately 200 feet west of Terra Bella Avenue (1115 Lincoln Court (DCL LLL, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). CEQA: Exempt.
PDC05-067 - District 6

Ordinance No. 27575 passed for publication.

- (b) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from CO Commercial Office Zoning District to A(PD) Planned Development Zoning District and associated Planned Development Permit to allow relocation of one single-family detached Victorian house on a 0.13 gross acre site, located on the north side of George Street, approximately 140' easterly of Guadalupe Parkway (175 George St.) (Neighborhood Housing Services Silicon Valley, Tony Batista, Maria R. Gudino, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). CEQA: Exempt.
PDC05-072 & PD05-049 - District 3

Ordinance No. 27576 passed for publication.

- (c) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development District to A(PD) Planned Development District to allow minor revisions (including rear and front setbacks and number of stories) to the development standards of a previously approved 12 unit single family attached project on a 0.54 gross acre site, located on the southeast corner of Alum Rock Avenue and McCreery Avenue (Tierra Encantada LP, Owner). SNI: Mayfair. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). CEQA: Negative Declaration.
PDC05-056 - District 5

Continued to 10/18/05.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar (Cont'd.)

Recommendation:

- (d) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning to rezone from R-1-8 Single Family Residence Zoning District to A(PD) Planned Development Zoning District to allow substandard lot sizes for two existing single family residences on a 0.2 gross acre site, located on the west side of Myrtle Street, approximately 200 feet northerly of West Hedding Street (927 Myrtle Street) (Judy C. McDowell, Trustee, Nguyen Nguyen Hoang and Hang Le, Owner). CEQA: Exempt.

PDC05-074 – District 6

Continued to 10/18/05.

11.2 Public Hearing to allow commercial uses on a 0.09 gross acre site.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Rezoning from CG Commercial General Zoning District to DC Downtown Primary Commercial Rezoning to allow commercial uses on a 0.09 gross acre site, located at/on the northwest corner of N. 2nd Street and Devine Street (257 N 2nd St.) (Daryl Fazekas, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). CEQA: Resolution No. 65459.

C04-067 - District 3

(Continued from 8/16/05 – Item 11.3 and 9/13/05 – Item 11.2)

Ordinance No. 27577 passed for publication.

Disqualified: Gonzales.

11.3 Public Hearing to allow commercial, automobile dealership and parking structure uses.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from CN Commercial Neighborhood and CG(PD) Planned Development Zoning Districts to CN(PD) to allow commercial, automobile dealership and parking structure uses on a 3.1 gross acre site (320 Ardis Avenue) and from R-1-8 to R-1-8 (PD) Planned Development Zoning Districts to allow parking and residential uses on a 0.16 gross acre site (333 South Henry Avenue) located at the south side of Stevens Creek Boulevard between Ardis and South Henry Avenues (Behel, Paris, Gesell, Calabro, Jozovich, Battaglia, Fenley, Mattos, Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PDC03-053 - District 1

Ordinance No. 27578 passed for publication.

11. PUBLIC HEARINGS

11.4 Public Hearing to allow the demolition of three single family detached residences and commercial uses.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from CN Commercial Neighborhood and R-1-8 Single Family Residence Zoning Districts to A(PD) Planned Development Zoning District to allow the demolition of three single family detached residences and allow commercial, automobile dealership and parking uses on a 1.46 gross acre site located at the southwest corner of Ardis Avenue and Stevens Creek Boulevard (3370 Stevens Creek Boulevard). (Homara Hooshang and Manizheh, Trustee, Owners. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC05-028 - District 1

Ordinance No. 27579 passed for publication.

11.5 Public Hearing to allow four single family detached residences.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning request from R-1-8 Single Family Residence District to A(PD) Planned Development to allow four single family detached residences on a 0.64 gross acre site, located on the west side of Curtiss Avenue, approximately 350 feet southerly of Willow Street (1163 Curtiss Avenue) (Willowshire LLC, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1) with modifications:

- (a) Change the maximum number of stories for the western-most house from two stories to one.
- (b) Modify the setbacks for the western-most house to require a 5-foot setback from the south property line and a 20-foot setback from the west property line for the residence and a 5-foot setback from an attached or detached single-story garage.

CEQA: Exempt.

PDC05-031 - District 6

Continued to 10/18/05.

- **Open Forum**

- (1) **Mark Trout voiced his own religious point of view.**

- **Adjournment**

The Council of the City of San José adjourned at 9:14 p.m. in memory of District 1 resident, Francis Consalvi, who passed away on September 27. She was instrumental in helping to found the Cypress Senior Center in West San José and was a passionate volunteer and advocate of senior programs and issues for over 22 years.

8 JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 4:46 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

8.1 Approval of a Cooperation Agreement for the transfer of the San Jose McEnery Convention Center South Hall building.

Recommendation: Approval of a Cooperation Agreement between the City of San Jose and the Redevelopment Agency providing for the Agency's transfer of the interim San Jose McEnery Convention Center South Hall building to the City of San Jose and providing for the City's use of the land generally lying between Balbach Street and Viola Street and Market Street and Almaden Avenue. CEQA: Mitigated Negative Declaration, File Number CP04-028 [MONTEREY CORRIDOR]

Approved, with Staff to provide a description of the pending improvements for the perimeter of the Convention Center South Hall (Balbach Street) so that the Market/Almaden Neighborhood community can be informed.

8.2 Approval of a Cooperation Agreement for the loan of an Agency employee to the City.

Recommendation: City Council and Redevelopment Agency Board approval of a Cooperation Agreement specifying the terms and conditions for the loan and employment, for administrative services, of an Agency employee to the City on a temporary basis.

Approved.

ADJOURNMENT

The Council of the City of San José, and Redevelopment Agency Board adjourned at 4:52 p.m.